IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8654 OF 2006

Hegade Tanaji Yeshwant..... .....
Petitioner
V/s
Shri Binawade Dilip Eknath & Ors..... .....
Respondents.

Office Notes, Office Memoranda of Coram, appearances Court's orders or directions and Registrar's orders.) Court's or Judge's Orders

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Mr.Laxman Bedekar, Adv. for the petitioner.

Mr.Surel S. Shah, Adv. For respondent No.1.

Mr.S.K.Chincholikar, AGP for R.No.4.

CORAM: A.P. DESHPANDE, J.
15.3.2007

PC:

Rule.

Rule made returnable forthwith.

By consent of parties taken up for final hearing.

The School Management promoted the present petitioner to the post of Laboratory Assistant who wad earlier working as Peon. The post of Laboratory Assistant is post in higher grade. The promotion was granted way back on

1.4.2001 and since then till the passing of the impugned order the petitioner has been working in the promotional post. By filing an appeal belatedly in the year 2005 the promotion granted to the petitioner with effect from 1.4.2001 is challenged. In the said appeal filed in the year 2005 an application was also moved claiming an interim relief in the nature of stay to the order of promotion dated 1.4.2001 and the Tribunal by impugned order has granted stay on 22.11.2006, pending decision of the main appeal. In the first place the appeal has been filed after a period of four years and the order has been passed by the Tribunal after five years after grant of promotion to the petitioner. It is crystal clear from the dates referred herein above that the Tribunal should not have granted stay as the subject matter of the appeal pertaining to the correctness of grant of promotion to the petitioner and the petitioner, moreso, having worked in the promotional post for five years before passing of the impugned order. The interlocutory impugned order passed by the Tribunal suffers from patent illegality and perversity in approach requiring interference of this Court in exercise of writ jurisdiction. In the result impugned

order granting interim stay in favour of respondent No.1 dated 22.11.2006 is quashed and set aside. The other order under challenge in this petition is one of condonation of delay. I do not propose interfere with the said interlocutory order at this stage. However I make clear that it shall be open for the petitioner to assail the said order if and in case final order passed by Tribunal in the main appeal goes against the petitioner and the petitioner is required to file writ petition questioning the correctness of final order. All points raised in the present petition touching the correctness of order condoning delay are left open to be agitated if and in case final order in appeal goes against the petitioner and the petitioner is required to file writ petition. Rule made absolute in above terms with no order as to costs.

15.3.07.